

PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

PCT

NOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL SEARCH REPORT
OR THE DECLARATION

(PCT Rule 44.1)

To:

JOHNSON & JOHNSON
Attn. Johnson, Philip S.
One Johnson & Johnson Plaza
New Brunswick, NJ 08903
UNITED STATES OF AMERICA

Date of mailing (day/month/year)	03/04/2003
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Applicant's or agent's file reference

MCP-274

FOR FURTHER ACTION

See paragraphs 1 and 4 below

International application No.

PCT/US 02/30613

International filing date
(day/month/year)

26/09/2002

Applicant

MCNEIL-PPC, INC.

1. ☒ The applicant is hereby notified that the International Search Report has been established and is transmitted herewith.

Filing of amendments and statement under Article 19:

The applicant is entitled, if he so wishes, to amend the claims of the International Application (see Rule 46):

When? The time limit for filing such amendments is normally 2 months from the date of transmittal of the International Search Report; however, for more details, see the notes on the accompanying sheet.

Where? Directly to the International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20, Switzerland
Fascimile No.: (41-22) 740.14.35

For more detailed instructions, see the notes on the accompanying sheet.

2. ☐ The applicant is hereby notified that no International Search Report will be established and that the declaration under Article 17(2)(a) to that effect is transmitted herewith.

3. ☐ With regard to the protest against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:

☐ the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.

☐ no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.

4. **Further action(s):** The applicant is reminded of the following:

Shortly after 18 months from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau as provided in Rules 90bis.1 and 90bis.3, respectively, before the completion of the technical preparations for international publication.

Within 19 months from the priority date, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase until 30 months from the priority date (in some Offices even later).

Within 20 months from the priority date, the applicant must perform the prescribed acts for entry into the national phase before all designated Offices which have not been elected in the demand or in a later election within 19 months from the priority date or could not be elected because they are not bound by Chapter II.

Name and mailing address of the International Searching Authority



European Patent Office, P.B. 5818 Patentlaan 2
NL-2280 HV Rijswijk

Authorized officer

Nicolas Michaleczek

NOTES TO FORM PCT/ISA/220

These Notes are intended to give the basic instructions concerning the filing of amendments under article 19. The Notes are based on the requirements of the Patent Cooperation Treaty, the Regulations and the Administrative Instructions under that Treaty. In case of discrepancy between these Notes and those requirements, the latter are applicable. For more detailed information, see also the PCT Applicant's Guide, a publication of WIPO.

In these Notes, "Article", "Rule", and "Section" refer to the provisions of the PCT, the PCT Regulations and the PCT Administrative Instructions respectively.

INSTRUCTIONS CONCERNING AMENDMENTS UNDER ARTICLE 19

The applicant has, after having received the international search report, one opportunity to amend the claims of the international application. It should however be emphasized that, since all parts of the international application (claims, description and drawings) may be amended during the international preliminary examination procedure, there is usually no need to file amendments of the claims under Article 19 except where, e.g. the applicant wants the letter to be published for the purposes of provisional protection or has another reason for amending the claims before international publication. Furthermore, it should be emphasized that provisional protection is available in some States only.

What parts of the international application may be amended?

Under Article 19, only the claims may be amended.

During the international phase, the claims may also be amended (or further amended) under Article 34 before the International Preliminary Examining Authority. The description and drawings may only be amended under Article 34 before the International Examining Authority.

Upon entry into the national phase, all parts of the international application may be amended under Article 28 or, where applicable, Article 41.

When?

Within 2 months from the date of transmittal of the international search report or 18 months from the priority date, whichever time limit expires later. It should be noted, however, that the amendments will be considered as having been received on time if they are received by the International Bureau after the expiration of the applicable time limit but before the completion of the technical preparations for international publication (Rule 46.1).

Where not to file the amendments?

The amendments may only be filed with the International Bureau and not with the receiving Office or the International Searching Authority (Rule 46.2).

Where a demand for international preliminary examination has been/is filed, see below.

How?

Either by cancelling one or more entire claims, by adding one or more new claims or by amending the text of one or more of the claims as filed.

A replacement sheet must be submitted for each sheet of the claims which, on account of an amendment or amendments, differs from the sheet originally filed.

All the claims appearing on a replacement sheet must be numbered in Arabic numerals. Where a claim is cancelled, no renumbering of the other claims is required. In all cases where claims are renumbered, they must be renumbered consecutively (Administrative Instructions, Section 205(b)).

The amendments must be made in the language in which the international application is to be published.

What documents must/may accompany the amendments?

Letter (Section 205(b)):

The amendments must be submitted with a letter.

The letter will not be published with the international application and the amended claims. It should not be confused with the "Statement under Article 19(1)" (see below, under "Statement under Article 19(1)").

The letter must be in English or French, at the choice of the applicant. However, if the language of the international application is English, the letter must be in English; if the language of the international application is French, the letter must be in French.

NOTES TO FORM PCT/ISA/220 (continued)

The letter must indicate the differences between the claims as filed and the claims as amended. It must, in particular, indicate, in connection with each claim appearing in the international application (it being understood that identical indications concerning several claims may be grouped), whether

- (i) the claim is unchanged;
- (ii) the claim is cancelled;
- (iii) the claim is new;
- (iv) the claim replaces one or more claims as filed;
- (v) the claim is the result of the division of a claim as filed.

The following examples illustrate the manner in which amendments must be explained in the accompanying letter:

1. [Where originally there were 48 claims and after amendment of some claims there are 51]:
"Claims 1 to 29, 31, 32, 34, 35, 37 to 48 replaced by amended claims bearing the same numbers, claims 30, 33 and 36 unchanged; new claims 49 to 51 added."
2. [Where originally there were 15 claims and after amendment of all claims there are 11]:
"Claims 1 to 15 replaced by amended claims 1 to 11."
3. [Where originally there were 14 claims and the amendments consist in cancelling some claims and in adding new claims]:
"Claims 1 to 6 and 14 unchanged; claims 7 to 13 cancelled; new claims 15, 16 and 17 added." or
"Claims 7 to 13 cancelled; new claims 15, 16 and 17 added; all other claims unchanged."
4. [Where various kinds of amendments are made]:
"Claims 1-10 unchanged; claims 11 to 13, 18 and 19 cancelled; claims 14, 15 and 16 replaced by amended claim 14; claim 17 subdivided into amended claims 15, 16 and 17; new claims 20 and 21 added."

"Statement under article 19(1)" (Rule 46.4)

The amendments may be accompanied by a statement explaining the amendments and indicating any impact that such amendments might have on the description and the drawings (which cannot be amended under Article 19(1)).

The statement will be published with the international application and the amended claims.

It must be in the language in which the international application is to be published.

It must be brief, not exceeding 500 words if in English or if translated into English.

It should not be confused with and does not replace the letter indicating the differences between the claims as filed and as amended. It must be filed on a separate sheet and must be identified as such by a heading, preferably by using the words "Statement under Article 19(1)."

It may not contain any disparaging comments on the international search report or the relevance of citations contained in that report. Reference to citations, relevant to a given claim, contained in the international search report may be made only in connection with an amendment of that claim.

Consequence if a demand for international preliminary examination has already been filed

If, at the time of filing any amendments under Article 19, a demand for international preliminary examination has already been submitted, the applicant must preferably, at the same time of filing the amendments with the International Bureau, also file a copy of such amendments with the International Preliminary Examining Authority (see Rule 62.2(a), first sentence).

Consequence with regard to translation of the international application for entry into the national phase

The applicant's attention is drawn to the fact that, where upon entry into the national phase, a translation of the claims as amended under Article 19 may have to be furnished to the designated/elected Offices, instead of, or in addition to, the translation of the claims as filed.

For further details on the requirements of each designated/elected Office, see Volume II of the PCT Applicant's Guide.

PATENT COOPERATION TREATY

PCT

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference MCP-274	FOR FURTHER ACTION see Notification of Transmittal of International Search Report (Form PCT/ISA/220) as well as, where applicable, item 5 below.	
International application No. PCT/US 02/30613	International filing date (day/month/year) 26/09/2002	(Earliest) Priority Date (day/month/year) 28/09/2001
Applicant MCNEIL-PPC, INC.		

This International Search Report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This International Search Report consists of a total of 9 sheets.



It is also accompanied by a copy of each prior art document cited in this report.

1. Basis of the report

- a. With regard to the language, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.



the international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)).

- b. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international search was carried out on the basis of the sequence listing:



contained in the international application in written form.



filed together with the international application in computer readable form.



furnished subsequently to this Authority in written form.



furnished subsequently to this Authority in computer readable form.



the statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.



the statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

2. ☒ Certain claims were found unsearchable (See Box I).

3. ☐ Unity of invention is lacking (see Box II).

4. With regard to the title,



the text is approved as submitted by the applicant.



the text has been established by this Authority to read as follows:

5. With regard to the abstract,



the text is approved as submitted by the applicant.



the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box III. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. The figure of the drawings to be published with the abstract is Figure No.



as suggested by the applicant.



because the applicant failed to suggest a figure.



because this figure better characterizes the invention.



None of the figures.

INTERNATIONAL SEARCH REPORT

International Application No.

PCT/US 02/30613

A. CLASSIFICATION OF SUBJECT MATTER
IPC 7 A61K47/44 A61K9/20

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

IPC 7 A61K

Documentation searched other than minimum documentation to the extent that such documents are included in the texts searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

EPO-Internal, WPI Data, PAJ, CHEM ABS Data, MEDLINE, EMBASE, BIOSIS, SCISEARCH, PASCAL

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	WO 99 32092 A (PALEPU NAGESWARA R ;SMITHKLINE BEECHAM CORP (US); VENKATESH GOPADI) 1 July 1999 (1999-07-01) cited in the application claim 49	1-20
X	WO 99 00122 A (MEYER HANS ;IPR INST PHARM RES RIEHEN AG (CH)) 7 January 1999 (1999-01-07) example 1	1-20
X	EP 0 387 885 A (BRISTOL MYERS CO) 19 September 1990 (1990-09-19) example 6	1-20
X	EP 0 740 938 A (IPR INST PHARM RES RIEHEN AG) 6 November 1996 (1996-11-06) example 1	1-20

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☒ Further documents are listed in the continuation of box C.☒ Patent family members are listed in annex.

* Special categories of cited documents:

- *A* document defining the general state of the art which is not considered to be of particular relevance
- *E* earlier document but published on or after the international filing date
- *L* document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another claim or other special reason (as specified)
- *O* document referring to an oral disclosure, use, exhibition or other means
- *P* document published prior to the international filing date but later than the priority date claimed

- *T* later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
- *X* document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
- *Y* document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art
- *Z* document member of the same patent family

Date of the actual completion of the international search

17 March 2003

Date of mailing of the international search report

03/04/2003

Name and mailing address of the ISA

European Patent Office, P.B. 5818 Patentlaan 2
NL - 2280 HV Rijswijk
Tel (+31-70) 340-2040 Telex 31 651 epc nl

Authorized officer

INTERNATIONAL SEARCH REPORT

International Application No

PCT/US 02/30613

C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	EP 0 610 854 A (TAKEDA CHEMICAL INDUSTRIES LTD) 17 August 1994 (1994-08-17) cited in the application page 7, line 12 - line 15; claims 1-31 page 7, line 56 - line 57 page 4, line 29 - line 30 ---	1-20
X	US 4 097 606 A (CHAVKIN LEONARD ET AL) 27 June 1978 (1978-06-27) example 12 ---	1-20
X	US 4 661 521 A (SALPEKAR ANIL M ET AL) 28 April 1987 (1987-04-28) cited in the application column 3, line 16 - line 17; claim 1 column 1, line 9 - line 17 ---	1-20
X	US 4 686 212 A (DUCATMAN FRED P ET AL) 11 August 1987 (1987-08-11) column 4, line 33 - line 41; claims 1-9 column 6, line 59 ---	1-20
X	US 4 076 819 A (MAFFRAND JEAN-PIERRE) 28 February 1978 (1978-02-28) example 11 ---	1-20
X	GB 866 681 A (MAY & BAKER LTD) 26 April 1961 (1961-04-26) example XX ---	1-20
A	WO 00 25755 A (FUISZ TECHNOLOGIES LTD) 11 May 2000 (2000-05-11) claims 1-9; examples 1-3 ---	1-20
A	EP 0 864 324 A (BASF AG) 16 September 1998 (1998-09-16) example 2 ---	1-20
A	US 4 894 236 A (JANG CHOONG-GOOK ET AL) 16 January 1990 (1990-01-16) claims 1-6 ---	1-20
A	DE BRABANDER C ET AL: "Matrix mini-tablets based on starch/microcrystalline wax mixtures." INTERNATIONAL JOURNAL OF PHARMACEUTICS. NETHERLANDS 20 APR 2000, vol. 199, no. 2, 20 April 2000 (2000-04-20), pages 195-203, XP002233674 ISSN: 0378-5173 the whole document -----	1-20

FURTHER INFORMATION CONTINUED FROM PCT/SA/ 210

Continuation of Box I.2

Claims Nos.: 1-20 (in part.)

Present claims 1,3-20 relate to an extremely large number of possible active ingredients. Support within the meaning of Article 6 PCT and/or disclosure within the meaning of Article 5 PCT is to be found, however, for only a very small proportion of the compounds claimed. In the present case, the claims so lack support, and the application so lacks disclosure, that a meaningful search over the whole of the claimed scope is impossible. Consequently, the search has been carried out for those parts of the claims which appear to be supported and disclosed, namely those parts relating to the compounds listed in dependent claim 2 and those used in the examples.

This applies mutatis mutandis to claims 12-14, for which the search has been limited to those parts related to the additional active ingredients listed in claim 15.

Present claim 1 relates to a tablet defined by reference to the following parameter:

P1: immediate release tablet meeting the USP dissolution specifications for immediate release tablets.

Moreover, claim 1 relates to a powdered wax defined by reference to the following parameter:

P2: powdered wax having a melting point greater than about 90°C.

The use of these parameters in the present context is considered to lead to a lack of clarity within the meaning of Article 6 PCT. It is impossible to compare the parameters the applicant has chosen to employ with what is set out in the prior art. The lack of clarity is such as to render a meaningful complete search impossible. Consequently, the search has been restricted to tablets comprising a powdered wax as defined in dependent claims 3 and 17 and in the examples (see claim 3). A complete search cannot be guaranteed because of the general formulations such as e.g. paraffin-type waxes or e.g. synthetic polyethylene waxes used therein.

In this context, it is pointed out that present claims 1-20 lack support within the meaning of Article 6 PCT and disclosure within the meaning of Article 5 PCT, since the waxes used in the examples do not fall within the definition given in said claims. Indeed, the waxes utilised in examples 1-5 are known to be waxes which do not have a melting point greater than about 90°C. This is also true for e.g. shellac, which has been cited as a preferred example in claim 18, but is known to have a melting point of about 77-82°C.

In dependent claims 11-15, the term "insert" is considered to lack clarity within the meaning of Article 6 PCT and disclosure within the meaning of Article 5 PCT. It is not clear to the skilled person what is encompassed by the term. Accordingly, since a meaningful search over the whole of the claimed scope is impossible, the search has thus been restricted to tablets

FURTHER INFORMATION CONTINUED FROM PCT/SA/ 210

as defined in claim 15.

The applicant's attention is drawn to the fact that claims, or parts of claims, relating to inventions in respect of which no international search report has been established need not be the subject of an international preliminary examination (Rule 66.1(e) PCT). The applicant is advised that the EPO policy when acting as an International Preliminary Examining Authority is normally not to carry out a preliminary examination on matter which has not been searched. This is the case irrespective of whether or not the claims are amended following receipt of the search report or during any Chapter II procedure.

INTERNATIONAL SEARCH REPORT

International application No.
PCT/US 02/30613

Box I Observations where certain claims were found unsearchable (Continuation of Item 1 of first sheet)

This International Search Report has not been established in respect of certain claims under Article 17(2)(a) for the following reasons:

1. ☐ Claims Nos.:
because they relate to subject matter not required to be searched by this Authority, namely:
2. ☒ Claims Nos.: 1-20 (in part.)
because they relate to parts of the International Application that do not comply with the prescribed requirements to such an extent that no meaningful International Search can be carried out, specifically:
see FURTHER INFORMATION sheet PCT/ISA/210
3. ☐ Claims Nos.:
because they are dependent claims and are not drafted in accordance with the second and third sentences of Rule 6.4(a).

Box II Observations where unity of invention is lacking (Continuation of Item 2 of first sheet)

This International Searching Authority found multiple inventions in this International application, as follows:

1. ☐ As all required additional search fees were timely paid by the applicant, this International Search Report covers all searchable claims.
2. ☐ As all searchable claims could be searched without effort justifying an additional fee, this Authority did not invite payment of any additional fee.
3. ☐ As only some of the required additional search fees were timely paid by the applicant, this International Search Report covers only those claims for which fees were paid, specifically claims Nos.:
4. ☐ No required additional search fees were timely paid by the applicant. Consequently, this International Search Report is restricted to the invention first mentioned in the claims; it is covered by claims Nos.:

Remark on Protest

- ☐ The additional search fees were accompanied by the applicant's protest.
☐ No protest accompanied the payment of additional search fees.

INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No

PCT/US 02/30613

Patent document cited in search report		Publication date	Pat nt family m mber(s)	Publication date
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			CA 2315088 A1	01-07-1999
			CN 1284867 T	21-02-2001
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			HU 0100469 A2	28-08-2001
			JP 2001526212 T	18-12-2001
			NO 20003150 A	11-08-2000
			PL 341353 A1	09-04-2001
			TR 200001856 T2	21-11-2000
			WO 9932092 A1	01-07-1999
			ZA 9811630 A	21-06-1999
WO 9900122	A	07-01-1999	AU 7755398 A	19-01-1999
			WO 9900122 A1	07-01-1999
			JP 2000515559 T	21-11-2000
			US 2002082299 A1	27-06-2002
EP 0387885	A	19-09-1990	US 4956182 A	11-09-1990
			AT 128031 T	15-10-1995
			AU 617601 B2	28-11-1991
			AU 5136790 A	20-09-1990
			BG 60501 B1	30-06-1995
			CA 2012300 A1	16-09-1990
			CN 1045921 A , B	10-10-1990
			CS 277488 B6	17-03-1993
			CY 1899 A	15-03-1990
			DD 292837 A5	14-08-1991
			DE 69022452 D1	26-10-1995
			DE 69022452 T2	14-03-1996
			DK 387885 T3	06-11-1995
			EG 19669 A	30-08-1995
			EP 0387885 A2	19-09-1990
			ES 2078917 T3	01-01-1996
			FI 92464 B	15-08-1994
			GR 3017460 T3	31-12-1995
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			HU 54489 A2	28-03-1991
			IE 70591 B1	11-12-1996
			JP 2974719 B2	10-11-1999
			JP 3236326 A	22-10-1991
			KR 140211 B1	01-06-1998
			NO 901183 A , B,	17-09-1990
			NZ 232864 A	28-04-1992
			OA 9198 A	30-06-1992
			PL 163301 B1	31-03-1994
			PT 93452 A , B	07-11-1990
			RO 106953 B1	30-08-1993
			RU 2069558 C1	27-11-1996
			US 5455047 A	03-10-1995
			US 5372823 A	13-12-1994
			YU 52390 A1	31-10-1991
			ZA 9002001 A	28-11-1990
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EP 0740938	A	06-11-1996	AT 203403 T	15-08-2001
			CA 2175429 A1	06-11-1996

INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No

PCT/US 02/30613

Patent document cited in search report	Publication date	Patent family member(s)	Publication date	
EP 0740938	A	EP 0740938 A2 JP 8337526 A US 5827874 A	06-11-1996 24-12-1996 27-10-1998	
EP 0610854	A	17-08-1994	AT 191846 T CA 2115308 A1 CN 1106652 A DE 69423990 D1 DE 69423990 T2 EP 0610854 A1 FI 940585 A JP 2647338 B2 JP 6293634 A NO 940373 A US 5456920 A	15-05-2000 11-08-1994 16-08-1995 25-05-2000 17-08-2000 17-08-1994 11-08-1994 27-08-1997 21-10-1994 11-08-1994 10-10-1995
US 4097606	A	27-06-1978	CA 1067827 A1	11-12-1979
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INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No

PCT/US 02/30613

Patent document cited in search report	Publication date	Patent family member(s)	Publication date
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		AU 1232600 A	22-05-2000
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		WO 0025755 A1	11-05-2000
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US 4894236	A	16-01-1990	NONE